

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a Rate)
Increase by Tampa Electric Company) Docket No. 020384-GU
d/b/a Peoples Gas System)
_____) Filed: October 8, 2002

**PETITION TO INTERVENE OF
AUBURNDALE POWER PARTNERS, L.P.**

Pursuant to Chapter 120, Florida Statutes, Chapter 366, Florida Statutes,¹ and Rules 25-22.039 and 28-106.205, Florida Administrative Code ("F.A.C."), Auburndale Power Partners. L.P. ("Auburndale"), hereby submits its Petition to Intervene ("Petition") in the above-styled proceeding. In summary, Auburndale is entitled to intervene as a matter of right because its substantial interests as a large industrial customer of Tampa Electric Company d/b/a Peoples Gas System ("Peoples") will be directly affected by the Commission's decisions in this docket. In further support of its Petition, Auburndale states as follows.

1. The name and address of the affected agency is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850.

2. The name and address of the Petitioner is:

Auburndale Power Partners, L.P.
2701 North Rocky Point Drive, Suite 1200
Tampa, Florida 33607
Telephone (813) 637-7300
Telecopier (813) 637-7399.

¹ All references to the Florida Statutes are to the 2002 edition thereof.

3. Copies of all pleadings, notices, and orders in this Docket should be provided to:

Robert Scheffel Wright
Diane K. Kiesling
John T. LaVia, III
Landers & Parsons, P.A.
310 West College Avenue (ZIP 32301)
Tallahassee, Florida 32302
Telephone (850) 681-0311
Telecopier (850) 224-5595

and

Joseph A. Regnery, Esquire
Senior Counsel
Calpine Eastern Corporation
2701 North Rocky Point Drive, Suite 1200
Tampa, Florida 33607
Telephone (813) 637-7307
Telecopier (813) 637-7399

with courtesy copies to:

Jim Downs
Manager, Fuels Regulatory
Calpine Energy Services, L.P.
700 Louisiana Street, Suite 2700
Houston, Texas 77002
Telephone (713) 570-4746
Telecopier (713) 830-8712

and

Roman J. Bakke
Manager, Fuels Supply
Calpine - Eastern Regional Office
The Pilot House - 2nd Floor
Lewis Wharf
Boston, Massachusetts 02110.

4. Auburndale Power Partners, L.P. owns and operates the Auburndale Power Plant, a 150 MW natural gas and oil-fired qualifying cogeneration facility located in Polk County, Florida. Auburndale is a large industrial customer that receives interruptible gas transportation service from Peoples, and the

delivered cost of natural gas constitutes a significant portion of the Auburndale plant's overall cost of production. Auburndale requires adequate, reasonably priced natural gas in order to compete in its respective markets.

Statement of Affected Interests

5. On June 27, 2002, Peoples filed a petition to increase its rates by more than \$22 million, as well as to make certain changes in its current rate design. The decisions that the Commission makes in this docket in regard to these and other issues in this docket will directly affect Auburndale's substantial interests.

6. Florida administrative law recognizes a two-part test to determine whether a person or party has standing to intervene in proceedings conducted pursuant to Sections 120.569 and 120.57(1), Florida Statutes. These two requirements are: (1) that the party will suffer injury in fact which is of sufficient immediacy to entitle the party to a section 120.57 hearing, and (2) that its alleged injury is of a type or nature which the proceeding is designed to protect. Agrico Chemical Company v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d DCA 1981); Royal Palm Square Associates v. Servco, 623 So.2d 533 (Fla. 2d DCA 1993); see Florida Optometric Association v. Department of Professional Regulation, 567 So.2d 928 (Fla. 1st DCA 1990); Florida Medical Association v. Department of Professional Regulation, 426 So.2d 1112

(Fla. 1st DCA 1983).

7. Auburndale's interests are of the type that this proceeding is designed to protect. The purpose of this general rate case proceeding is to ensure that the rates Peoples charges are fair, just, and reasonable pursuant to Chapter 366, Florida Statutes. Auburndale receives and pays for large quantities of gas transportation service from Peoples. The purpose of the proceeding thus coincides with Auburndale's interests, which are to ensure that the rates at which it receives natural gas transportation services from Peoples are fair, just, and reasonable, and that the service provided by Peoples is efficient and cost-effective.

Disputed Issues of Material Fact

8. Auburndale anticipates that the issues of disputed fact in this case will include, but are not limited to:

- a. Whether the rate changes proposed by Peoples are fair, just, and reasonable; and
- b. Whether the rate design proposed by Peoples is appropriate.

Auburndale reserves its rights to raise additional issues as such may be identified during the course of discovery in this case.

Statement of Ultimate Facts Alleged

9. Pending further review of materials filed and discovery responses provided in these proceedings, Auburndale alleges that Peoples is entitled to charge fair, just, and reasonable rates for efficient and cost-effective service. Auburndale will provide its

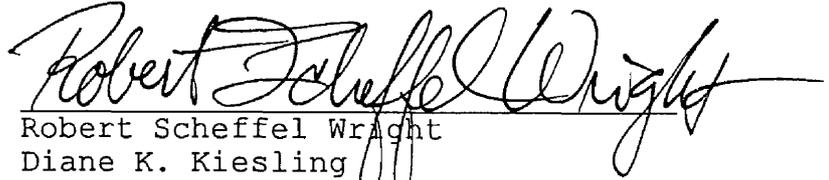
specific positions on all issues in this proceeding in accord with the case schedule and procedural orders governing the docket. Auburndale reserves its rights to raise additional issues of fact as such may be identified during the course of discovery in this case.

Rules and Statutes That Entitle Auburndale to Relief

As regards its right to intervene, Auburndale is entitled to relief by Chapter 120, Florida Statutes, and by Rules 25-22.029 and 28-106.205, F.A.C. As regards the ultimate relief sought by Auburndale, namely that the Commission will set fair, just, and reasonable rates that Peoples may charge for efficient and cost-effective service, Auburndale is entitled to relief by Sections 366.03, 366.041, 366.05(1), 366.06(1), and 366.072, Florida Statutes.

Prayer for Relief

WHEREFORE, Auburndale Power Partners, L.P. requests that the Commission GRANT this Petition to Intervene and enter its order allowing Auburndale to intervene as a full party in this docket. Auburndale further prays that at the conclusion of the proceedings in this docket, the Commission will set the fair, just, and reasonable rates that Peoples may charge to render efficient, sufficient, and cost-effective service.



Robert Scheffel Wright
Diane K. Kiesling
John T. LaVia, III
Landers & Parsons, P.A.
310 West College Avenue (ZIP 32301)
Tallahassee, Florida 32302
Telephone (850) 681-0311
Telecopier (850) 224-5595

Attorneys for Auburndale
Power Partners, L.P.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Auburndale Power Partners' Petition to Intervene was on this 8th day of October 2002, served via (*) hand delivery and U.S. Mail to the following:

Adrienne Vining (*)
Division of Legal Services
Fla. Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

Florida Industrial Gas Users
c/o John W. McWhirter
McWhirter Reeves
400 North Tampa Street,
Suite 3350
Tampa, FL 33602
Phone: (813) 224-0866
Fax: (813) 221-1854

Peoples Gas System
Ms. Angela L. Llewellyn
P. O. Box 2562
Tampa, FL 33601-2562
Phone: (813) 228-4592
Fax: (813) 228-4643
Email: FJSivard@tecoenergy.com

TECO Energy, Inc.
Matthew Costa
P. O. Box 111
Tampa, FL 33601-0111
Phone: (813) 228-4938

Macfarlane Ferguson Law Firm
Ansley Watson, Jr.
P.O. Box 1531
Tampa, FL 33601-1531
Phone: (813) 273-4200
Fax: (813) 273-4396

McWhirter Law Firm (*)
Vicki Kaufman/Timothy Perry
117 S. Gadsden St.
Tallahassee, FL 32301
Phone: (850) 222-2525
Fax: (850) 222-5606

Office of Public Counsel
H. F. Rick Mann
c/o The Florida Legislature
111 W. Madison St., #812
Tallahassee, FL 32399-1400
Phone: (850) 488-9330


Robert Scheffel Wright